

## **EXHIBIT D'**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

LOWTECH STUDIOS, LLC,	)	CASE NO.: 1:23-cv-1437-DAE
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
KOOAPPS LLC, JONATHAN CHANG, and	)	
CHUN-KAI WANG,	)	
	)	
Defendants.	)	
	)	
<hr style="border: 0.5px solid black;"/>	)	
	)	
KOOAPPS INC.,	)	
	)	
Counterclaim-Plaintiff,	)	
	)	
v.	)	
	)	
LOWTECH STUDIOS, LLC and STEVEN	)	
HOWSE,	)	
	)	
Counterclaim-Defendants.	)	
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**KOOAPPS INC.'S AMENDED ANSWER TO FIRST AMENDED COMPLAINT AND  
KOOAPPS INC.'S COUNTERCLAIMS**

## **PRELIMINARY STATEMENT**

Kooapps Inc., f/k/a Kooapps LLC,<sup>1</sup> (“Kooapps” or “Defendant”) hereby answers, for itself and no other, Plaintiff’s First Amended Complaint (the “Amended Complaint”), Dkt No. 46, filed on October 29, 2024.

1. The allegation that this is an unfair competition case is a legal conclusion to which no response is required. Kooapps lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 1 of the Amended Complaint and on that basis denies them.

2. Defendant Kooapps admits that it is aware of Lowtech. Defendant admits that Kooapps co-founder and Chief Operating Officer (COO), Jonathan Chang, contacted Lowtech in July 2019 regarding a possible acquisition of Slither.io. Defendant admits that, as part of Kooapps’ routine business of purchasing third-party games, a Kooapps employee followed up with Lowtech, stating: “We are interested in acquiring Slither.io; we typically pay anywhere from \$10,000 to \$4,000,000 for an app.” Defendant denies the remaining allegations in Paragraph 2 of the Amended Complaint.

3. Defendant admits that Jonathan Chang is the COO of Kooapps and Chun-Kai Wang is the Chief Executive Officer of Kooapps. Defendant denies the remaining allegations in Paragraph 3 of the Amended Complaint.

4. Defendant admits that Kooapps’ co-founder and Chief Operating Officer, Jonathan Chang, contacted Lowtech in July 2019 regarding a possible acquisition of Slither.io. Defendant admits that, as part of Kooapps’ routine business of purchasing third-party games, a Kooapps employee followed up with Lowtech, stating: “We are interested in acquiring Slither.io; we typically pay anywhere from \$10,000 to \$4,000,000 for an app.” Defendant denies the remaining allegations in Paragraph 4 of the Amended Complaint.

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<sup>1</sup> Kooapps restructured from Kooapps LLC (a limited liability company) to Kooapps Inc. (a C-corporation), effective January 1, 2025.

5. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 5 of the Amended Complaint and on that basis denies them.

6. Defendant denies the allegations in Paragraph 6 of the Amended Complaint.

7. Based on USPTO records publicly accessible, Defendant admits that Lowtech owns USPTO Reg. Nos. 5973458, 5758021, and 5800704. Defendant denies the remaining allegations in Paragraph 7 of the Amended Complaint

8. Defendant admits that Kooapps has used the word “slither” to describe the movement of the snake in Snake.io. Defendant admits that, at Apple’s recommendation, on Apple platforms, Kooapps has purchased keyword advertisements for “Slither” and “Slither.io” in addition to dozens of other keywords and phrases, however, Defendant denies the allegations that this causes any consumer confusion. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 8 of the Amended Complaint and on that basis denies them.

9. That Lowtech seeks an injunction from the Court is a legal conclusion to which no response is required. Defendant denies the remaining allegations in Paragraph 9 of the Amended Complaint.

#### **THE PARTIES**

10. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 10 of the Amended Complaint and on that basis denies them.

11. Defendant admits that Kooapps is a C-corporation organized under the laws of the State of Delaware. Defendant admits that Kooapps’ principal place of business is 15015 Main St., Suite 200, Bellevue, Washington 98007-5229. Defendant admits that Kooapps can be served with process through its registered agent, Business Filings Incorporated at 711 Capitol Way S, Suite 204, Olympia, WA 98501. Defendant denies the remaining allegations in Paragraph 11 of the Amended Complaint.

12. Defendant admits that Chun-Kai Wang is a resident of the State of Washington and can be served with process in Bellevue, Washington. Defendant admits that Chun-Kai Wang is

Kooapps' co-founder and chief executive officer and assisted with the development of the Snake.io game. Defendant admits that Chun-Kai Wang signed the application the Snake.io logo in U.S. Serial No. 90315389 ("Snake.io Logo Mark"). Defendant otherwise denies the allegations in this paragraph.

13. Defendant admits that Jonathan Chang is a resident of the State of California and can be served with process in Richmond, California. Defendant otherwise denies the allegations in this paragraph.

14. Paragraph 14 does not contain any factual allegations and therefore no response is required.

#### **JURISDICTION AND VENUE**

15. Paragraph 15 contains legal conclusions to which no response is required.

16. Paragraph 16 contains legal conclusions to which no response is required regarding personal jurisdiction and personal liability. Defendant denies the remaining allegations in this paragraph.

17. Paragraph 17 contains legal conclusions to which no response is required regarding personal jurisdiction. Defendant denies the remaining allegations in this paragraph.

18. Paragraph 18 contains legal conclusions to which no response is required regarding venue. Defendant denies the remaining allegations in this paragraph.

#### **FACTUAL BACKGROUND**

19. Defendant denies that Lowtech owns all rights to Slither.io. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 19 of the Amended Complaint and on that basis denies them.

20. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 20 of the Amended Complaint and on that basis denies them.

21. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 21 of the Amended Complaint and on that basis denies them.

22. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 22 of the Amended Complaint and on that basis denies them.

23. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 23 of the Amended Complaint and on that basis denies them.

24. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 24 of the Amended Complaint and on that basis denies them.

25. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 25 of the Amended Complaint and on that basis denies them.

26. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 26 of the Amended Complaint and on that basis denies them.

27. Based on U.S. Patent and Trademark Office (“USPTO”) records publicly accessible, Defendant admits that Lowtech owns USPTO Reg. No. 5099939 (the “Slither Icon”). Based on USPTO records publicly accessible, Defendant admits that the Slither Icon was first registered on December 13, 2016. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 27 of the Amended Complaint and on that basis denies them.

28. Based on USPTO records publicly accessible, Defendant admits that Lowtech owns USPTO Reg. Nos. 5758021(SLITHER.IO) and 5090536 (SLITHER) (collectively, the “Slither Word Marks”). Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 28 of the Amended Complaint and on that basis denies them.

29. Defendant denies that Lowtech Studios has trade dress rights associated with Slither.io. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 29 of the Amended Complaint and on that basis denies them.

30. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 30 of the Amended Complaint and on that basis denies them.

31. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 31 of the Amended Complaint and on that basis denies them.

32. Based on USPTO records publicly accessible, Defendant admits that Lowtech owns USPTO Reg. Nos. 5973458, 5758021, and 5800704. Based on USPTO records that are publicly accessible, the USPTO granted registration for Reg. No. 5973458 on January 28, 2020 and that registration covers “Stickers, sticker books, and books, namely, comic books, children's books, and books in the field of video games” in Class 16, “Backpacks, book bags, sports bags, bum bags, wallets, and handbags” in Class 18, and “Clothing, namely, hats, shirts, t-shirts, sweatshirts, and Halloween and masquerade costumes” in Class 25. Defendant admits that Reg. Nos. 5758021 and 5800704 also cover Classes 16, 18, and 25. Defendant lacks sufficient knowledge to admit or deny the remaining allegations of Paragraph 32 of the Amended Complaint and on that basis denies them.

33. Defendant denies the allegations of Paragraph 33 of the Amended Complaint.

34. Defendant admits Kooapps released the Snake.io game. Defendant denies the remaining allegations of Paragraph 34 of the Amended Complaint.

35. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 35 of the Amended Complaint and on that basis denies them.

36. Defendant lacks sufficient knowledge to admit or deny whether the user reviews purported to be copied in Paragraph 36 are authentic and on that basis denies the related allegations. Defendants otherwise deny the allegations in Paragraph 36 of the Amended Complaint.

37. Defendant denies the allegations in Paragraph 37 of the Amended Complaint.

38. Defendant admits that Snake.io was published on the Google Play Store on April 14, 2016. Defendant admits that Snake.io was published on the Apple App Store on April 21, 2016. Defendant admits that it used the below design to market its Snake.io game:



39. Defendant admits that Kooapps' marketing of its Snake.io game has changed since the game's publication nearly eight years ago. Defendant denies the remaining allegations in Paragraph 39 of the Amended Complaint.

40. Defendant admits that Kooapps co-founder and Chief Operating Officer, Jonathan Chang, contacted Lowtech in July 2019 regarding a possible acquisition of Slither.io. Defendant admits that, as part of Kooapps' routine business of purchasing third-party games, a Kooapps employee followed up with Lowtech, stating: "We are interested in acquiring Slither.io; we typically pay anywhere from \$10,000 to \$4,000,000 for an app." Defendant denies the remaining allegations in Paragraph 40 of the Amended Complaint.

41. Defendant admits that Jonathan Chang sent an email to Lowtech Studios indicating he is a fan of Slither and offering to connect to meet other game developers and share experiences about operating within the industry. Defendant admits that other employees have reached out to Lowtech as recently as November 1, 2023 about a possible acquisition of the Slither game. Defendant admits that one of Kooapps' employees emailed Lowtech, stating that, "My kids really love your game and they play it all the time!" Defendant lacks sufficient knowledge to admit or deny the remaining allegations of Paragraph 41 of the Amended Complaint and on that basis denies them.

42. Defendant admits that Dom Davies joined Kooapps in a consulting role as Director of Strategy and Operations in November 2021. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 42 of the Amended Complaint and on that basis denies them.

43. Defendant lacks sufficient knowledge to admit or deny the allegations in the first sentence of Paragraph 43 of the Complaint and on that basis denies them. Defendant denies the remaining allegations of Paragraph 43 of the Amended Complaint.

44. Defendant admits Lowtech has not responded to communications from Kooapps. Defendant admits that Kooapps developed another graphic for its Snake.io game in which the



orientation of the creature changed, and the creature's eyes were further stylized. Defendant denies the remaining allegations of Paragraph 44 of the Amended Complaint.

45. Defendant admits that in 2020, Kooapps developed another iteration of the Snake.io graphic. Defendant denies the remaining allegations of Paragraph 45 of the Amended Complaint.

46. Defendant admits that they have used the word "slither" to describe the movement of the snake in the Snake.io game. Defendant lacks sufficient knowledge to admit or deny whether the purported screenshot of the Apple App Store in Paragraph 46 of the Amended Complaint is authentic and on that basis denies the related allegations

47. Defendant admits that, at Apple's recommendation, on Apple platforms Kooapps has purchased keyword advertisements for "Slither" and "Slither.io" in addition to dozens of other keywords and phrases. Defendant denies the remaining allegations of Paragraph 47 of the Amended Complaint.

48. Defendant lacks sufficient knowledge to admit or deny the allegations in Paragraph 48 of the Amended Complaint and on that basis denies them.

49. Defendant denies the allegations in the first sentence of Paragraph 49 of the Complaint. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 49 of the Amended Complaint and on that basis denies them.

50. Defendant denies the allegations in Paragraph 50 of the Amended Complaint.

51. Defendant admits that Apple approached Kooapps about offering its Snake.io game in the Apple Arcade and that a version of Snake.io was then placed in the Apple Arcade in 2023. Defendant denies the remaining allegations in Paragraph 51 of the Amended Complaint.

52. Defendant admits its Snake.io Logo Mark is displayed on its website homepage, <www.kooapps.com>. Defendant denies the remaining allegations in Paragraph 52 of the Amended Complaint.

53. Defendant admits that in November 2020, Kooapps filed an application to register its Snake Logo Mark with the USPTO. Defendant denies the remaining allegations in Paragraph 53 of the Amended Complaint.

54. Defendant admits that the USPTO granted a registration for a design mark on November 16, 2021 (Reg. No. 6559223). Defendant denies the remaining allegations in Paragraph 54 of the Amended Complaint.

55. Defendant denies the allegations in Paragraph 55 of the Amended Complaint.

56. Defendant denies the allegations in Paragraph 56 of the Amended Complaint.

57. Defendant denies the allegations in Paragraph 57 of the Amended Complaint.

58. Defendant denies the allegations in Paragraph 58 of the Amended Complaint.

59. Defendant denies the allegations in Paragraph 59 of the Amended Complaint.

60. Defendant denies the allegations in Paragraph 60 of the Amended Complaint.

61. Defendant denies the allegations in Paragraph 61 of the Amended Complaint.

### **CAUSES OF ACTION**

#### **Count I – Trademark Infringement in Violation of 15 U.S.C. § 1114 (Against All Defendants)**

62. Defendant incorporates by reference its responses to Paragraphs 1-61, inclusive, as if fully set forth herein.

63. Defendant denies the allegations in Paragraph 63 of the Amended Complaint.

64. Defendant denies the allegations in Paragraph 64 of the Amended Complaint.

65. Defendant denies the allegations in Paragraph 65 of the Amended Complaint.

66. Defendant denies the allegations in Paragraph 66 of the Amended Complaint.

67. Defendant denies the allegations in Paragraph 67 of the Amended Complaint.

68. Defendant denies the allegations in Paragraph 68 of the Amended Complaint.

69. Defendant denies the allegations in Paragraph 69 of the Amended Complaint.

70. Defendant denies the allegations in Paragraph 70 of the Amended Complaint.

**Count II – False Designation of Origin/Unfair Competition/Trade Dress  
Infringement in Violation of 15 U.S.C. § 1125(a)  
(Against All Defendants)**

71. Defendant incorporates by reference its responses to Paragraphs 1-70, inclusive, as if fully set forth herein.

72. Based on USPTO records publicly accessible, Defendant admits that Lowtech obtained USPTO registrations for the Slither Icon and the Slither Word Marks. Defendant lacks sufficient knowledge to admit or deny the allegation in the second sentence of Paragraph 72 of the Amended Complaint and on that basis denies it.

73. Defendant denies the allegations in Paragraph 73 of the Amended Complaint.

74. Defendant denies the allegations in Paragraph 74 of the Amended Complaint.

75. Defendant denies the allegations in Paragraph 75 of the Amended Complaint.

76. Defendant denies the allegations in Paragraph 76 of the Amended Complaint.

77. Defendant denies the allegations in Paragraph 77 of the Amended Complaint.

78. Defendant denies the allegations in Paragraph 78 of the Amended Complaint.

79. Defendant denies the allegations in Paragraph 79 of the Amended Complaint.

**Count III – False Advertising in Violation of 15 U.S.C. § 1125(a)  
(Against All Defendants)**

80. Defendant incorporates by reference its responses to Paragraphs 1-79, inclusive, as if fully set forth herein.

81. Defendant denies the allegations in Paragraph 81 of the Amended Complaint.

82. Defendant denies the allegations in Paragraph 82 of the Amended Complaint.

83. Defendant denies the allegations in Paragraph 83 of the Amended Complaint.

84. Defendant denies the allegations in Paragraph 84 of the Amended Complaint.

85. Defendant denies the allegations in Paragraph 85 of the Amended Complaint.

**Count IV – False/Fraudulent Registration Under 15 U.S.C. § 1120  
(Against Kooapps)**

86. Kooapps incorporates by reference its responses to Paragraphs 1-85, inclusive, as if fully set forth herein.

87. Kooapps admits that it filed an application with the USPTO for a design mark on November 12, 2020 (Reg. No. 6559223). Kooapps denies that it filed the application corresponding to Reg. No. 6559223 on November 20, 2020. Kooapps denies the remaining allegations in Paragraph 87 of the Amended Complaint.

88. Kooapps denies the allegations of Paragraph 88 of the Amended Complaint.

89. Kooapps denies the allegations of Paragraph 89 of the Amended Complaint.

90. Kooapps denies the allegations of Paragraph 90 of the Amended Complaint.

91. Kooapps denies the allegations of Paragraph 91 of the Amended Complaint.

92. Kooapps denies the allegations of Paragraph 92 of the Amended Complaint.

**Count V – Common Law Trademark Infringement  
(Against All Defendants)**

93. Defendant incorporates by reference its responses to Paragraphs 1-92, inclusive, as if fully set forth herein.

94. Defendant lacks information necessary to admit or deny the allegations in the first sentence of Paragraph 94 of the Amended Complaint and on that basis denies them. Defendant denies the remaining allegations of Paragraph 94 of the Amended Complaint.

95. Defendant denies the allegations of Paragraph 95 of the Amended Complaint.

96. Defendant denies the allegations of Paragraph 96 of the Amended Complaint.

97. Defendant denies the allegations of Paragraph 97 of the Amended Complaint.

98. Defendant denies the allegations of Paragraph 98 of the Amended Complaint.

99. Defendant denies the allegations of Paragraph 99 of the Amended Complaint.

100. Defendant denies the allegations of Paragraph 100 of the Amended Complaint.

**Count VI – Common Law Unfair Competition  
(Against All Defendants)**

101. Defendant incorporates by reference their responses to Paragraphs 1-100, inclusive, as if fully set forth herein.

102. Defendant denies the allegations of Paragraph 102 of the Amended Complaint.

103. Defendant denies the allegations of Paragraph 103 of the Amended Complaint.

104. Defendant denies the allegations of Paragraph 104 of the Amended Complaint.

105. Defendant denies the allegations of Paragraph 105 of the Amended Complaint.

106. Defendant denies the allegations of Paragraph 106 of the Amended Complaint.

**Count VII – Cancellation of Trademark Registration Pursuant to 15 U.S.C. § 1119  
(Against Kooapps)**

107. Kooapps incorporates by reference its responses to Paragraphs 1-106, inclusive, as if fully set forth herein.

108. Kooapps denies the allegations of Paragraph 108 of the Amended Complaint.

109. Kooapps denies the allegations of Paragraph 109 of the Amended Complaint.

110. Paragraph 110 calls for a legal conclusion to which no response is required.

111. Kooapps denies the allegations of Paragraph 111 of the Amended Complaint.

**Count VIII – Trademark Dilution in Violation of 15 U.S.C. § 1125(c)  
(Against All Defendants)**

112. Defendant incorporates by reference their responses to Paragraphs 1-111, inclusive, as if fully set forth herein.

113. Defendant denies the Snake Mark and Word Mark are famous or distinctive. Defendant lacks sufficient knowledge to admit or deny the remaining allegations in Paragraph 113 of the Amended Complaint and on that basis denies them.

114. Defendant denies the allegations of Paragraph 114 of the Amended Complaint.

115. Defendant denies the allegations of Paragraph 115 of the Amended Complaint.

116. Defendant denies the allegations of Paragraph 116 of the Amended Complaint.

117. Defendant denies the allegations of Paragraph 117 of the Amended Complaint.

118. Defendant denies the allegations of Paragraph 118 of the Amended Complaint.

119. Defendant denies the allegations of Paragraph 119 of the Amended Complaint.

120. Defendant denies the allegations of Paragraph 120 of the Amended Complaint.

**Count IX – Unjust Enrichment  
(Against Kooapps)**

121. Kooapps incorporates by reference its responses to Paragraphs 1-120, inclusive, as if fully set forth herein.

122. Kooapps denies the allegations of Paragraph 122 of the Amended Complaint.

123. Kooapps denies the allegations of Paragraph 123 of the Amended Complaint.

124. Kooapps denies the allegations of Paragraph 124 of the Amended Complaint.

**ATTORNEY'S FEES**

125. Defendant denies the allegations of Paragraph 125 of the Amended Complaint.

**JURY DEMAND**

126. Defendants request a jury trial on all matters so triable.

**PRAYER FOR RELIEF**

Defendant denies that Lowtech is entitled to any of the relief it has requested in the Amended Complaint. Defendant requests that the Court enter judgment that:

- a) Lowtech take nothing by way of its Amended Complaint;
- b) Defendants do not infringe any Lowtech trademarks;
- c) The Court declare this case exceptional and award Defendants their fees;
- d) Defendants shall recover the costs of suit; and
- e) All other relief the Court deems appropriate.

**AFFIRMATIVE DEFENSES**

Pursuant to Rule 8(c) of the Federal Rules of Civil Procedure, Defendant sets forth the following affirmative and other defenses, reserving the right to modify, amend and/or expand upon

these defenses as discovery proceeds. Defendant does not assume the burden of proof or persuasion with respect to those matters as to which, pursuant to law, Lowtech bears the burden.

#### **FIRST AFFIRMATIVE DEFENSE**

The Amended Complaint, and each claim asserted within it, fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, from relief in this action under the doctrine of laches and/or the application of relevant statutes of limitations.

#### **THIRD AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, from relief in this action under the doctrine of estoppel.

#### **FOURTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, from relief in this action under the doctrine of acquiescence.

#### **FIFTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, by its failure to mitigate damages.

#### **SIXTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, by the doctrine of waiver.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, because Lowtech has failed to police its alleged trademarks that are the subject of this action.

#### **EIGHTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred in whole, or in part, because its marks are not protectable. If Lowtech's trademarks related to its Slither.io game are protectable at all, those marks are weak. The word "SLITHER" and depictions of cartoon snakes have been used repeatedly by game developers for years.

#### **NINTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred, in whole or in part, because at least some of the allegedly infringing uses of the asserted marks were fair use, including, for example, as nominative or descriptive fair use.

#### **TENTH AFFIRMATIVE DEFENSE**

Lowtech's claims are barred, in whole or in part, by abandonment of the asserted marks.

#### **RESERVATION OF RIGHTS**

Kooapps reserves the right to assert additional defenses in the event that discovery or further investigation demonstrates that any such defense is appropriate or applicable.

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### **KOOAPPS INC.'S COUNTERCLAIMS**

Counterclaim-Plaintiff Kooapps Inc., f/k/a Kooapps LLC, (“Kooapps”) hereby alleges the following Counterclaims against Counterclaim-Defendants Lowtech Studios, LLC (“Lowtech”) and Steven Howse (“Howse”):

#### **PRELIMINARY STATEMENT**

1. Kooapps brings these Counterclaims to seek redress from Lowtech and Howse’s repeated efforts to defame and sabotage Kooapps during the course of Lowtech’s ongoing lawsuit against Kooapps. Not content to assert baseless claims against Kooapps through civil litigation, Lowtech and Howse have resorted to underhanded subterfuge on social media. There, under cover of anonymity, they have knowingly spread falsehoods in an attempt to harm Kooapps and undermine its reputation. Indeed, dating to at least May of 2024, Lowtech and Howse have repeatedly defamed Kooapps and made false statements about Kooapps’ products. Additionally, Lowtech and Howse have instigated a “smear campaign” against Kooapps, encouraging users to leave falsely negative reviews on Kooapps’ games and interfere with its prospective business relations. Through these Counterclaims, Kooapps seeks remedy for the significant damages caused by Lowtech and Howse’s misconduct.

#### **PARTIES**

2. Kooapps is a C-corporation organized under the laws of the State of Delaware, with its principal place of business at 15015 Main St., Suite 200, Bellevue, Washington 98007-5229.

3. Upon information and belief, Lowtech is a limited liability company organized under the laws of the State of Michigan, with its principal place of business in Austin, Texas.

4. Upon information and belief, Steven Howse is a resident of the State of Texas. He can be served with process at 214 Barton Springs Road, Apartment 1422, Austin, TX, 78704-0129. Howse is the principal of Lowtech and is the creator of the Slither.io Game (“Slither.io”).

#### **JURISDICTION AND VENUE**

5. This action arises under the trademark laws of the United States, 15 U.S.C. § 1051, *et seq.*, under common law defamation, business disparagement, and tortious interference, and under statutory unfair competition.

6. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 because this action arises under federal trademark law. This Court has diversity jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1332 because the parties are diverse and the amount in controversy exceeds \$75,000. This Court also has supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367.

7. This Court has personal jurisdiction over Lowtech because it has engaged in the actionable conduct alleged herein directed at this Judicial District and the State of Texas, because Lowtech does business in this Judicial District and the State of Texas, and because Lowtech has subjected itself to this Court’s jurisdiction by commencing suit in this Court.

8. This Court has personal jurisdiction over Howse because, on information and belief, he is a resident of this Judicial District and the State of Texas, he does business in this Judicial District and the State of Texas, and has engaged in the actionable conduct alleged herein, both individually and through his company Lowtech, directed at this Judicial District and the State of Texas.

9. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 because Lowtech and Howse have committed the acts at issue in this Complaint in this District.

## **FACTUAL BACKGROUND**

### **I. Kooapps and the Development of the Snake.io Game**

10. Kooapps is a Seattle-based gaming studio, which was founded in 2008 by a diverse group of individuals with the vision of building video games that bring communities together. Since its founding, Kooapps has built games that have generated over 1 billion downloads globally. Kooapps' gaming portfolio is extensive, but its most prominent games include Snake.io, Piano Tiles 2, Stacky Bird, and Pictoword. Due to its success, Kooapps and its portfolio of games have become well-known and well-respected in the gaming industry.

11. Snake.io (the "Snake.io Game") is a spin-off of a classic retro arcade game that has existed in various forms for decades. Users play as cartoon snakes who slowly grow throughout the game with the goal of avoiding other snakes on the map. The Snake.io Game was originally developed and launched in April 2016 by Amelos Interactive. Kooapps acquired the game from Amelos Interactive in May 2019.

12. The Snake.io Game is generally free to download on mobile app stores including the Apple App Store and the Google Play Store. Revenue from the Snake.io Game is primarily generated by advertising and in-game purchases. At a high level, there is a correlation between the number of game users and downloads, and revenue generated from the Snake.io Game.

13. To protect its rights, Kooapps promptly filed for an image trademark for the Snake.io Game's logo in 2020. The application was granted by the U.S. Patent and Trademark Office ("PTO") after the PTO deemed it sufficiently unique. Today, the Snake.io Game's image mark is a registered trademark in more than 20 countries, and it has been filed in over 70 countries.

14. Following its acquisition of the Snake.io Game, Kooapps completely redesigned the game and rebuilt its underlying technology, spending millions of dollars in development. This

included developing and adding a plethora of new features to the game such as global leaderboards, social sharing, unique characters, daily challenges, monthly live events, narrative elements, and content moderation. All of these new features were instrumental in increasing the engagement and long-term retention of the Snake.io Game's users.

15. Of the many updates Kooapps made to the Snake.io Game, one of the most important was the addition and development of multiplayer features. When Kooapps acquired the Snake.io Game in 2019, the game already featured an online multiplayer leaderboard, which allowed users to see how they ranked against other users. Kooapps subsequently rebuilt this online multiplayer leaderboard using its own systems and servers. In 2021, after the addition of live events to the game, Kooapps added an online multiplayer live event leaderboard.

16. In July 2021, Kooapps introduced real-time synchronous gameplay-based multiplayer on the web version of the Snake.io Game. This allowed users to compete against other users online in a real-time synchronous gameplay environment. Kooapps began to introduce this feature on the mobile versions of the Snake.io Game in early 2022.

17. The updates which Kooapps made to the Snake.io Game were extremely successful. Kooapps' investment in the Snake.io Game enabled it to grow into a well-known brand with a number of important and highly visible partnerships. For example, in May 2023, Apple partnered with Kooapps to launch a version of the Snake.io Game, Snake.io+, on Apple's popular Apple Arcade gaming platform. In August 2024, Kooapps partnered with Netflix to launch the Snake.io Game on Netflix. In November 2024, Kooapps partnered with Nintendo to launch the Snake.io Game on the Nintendo Switch portable gaming device. Further, the Snake.io Game's live events have included licensed collaborations with other popular gaming brands such as Among Us and Fall Guys. The popularity of the Snake.io Game even led to it being played by Neuralink patients

to help with ongoing brain therapy. Since Kooapps acquired the game in 2019, the Snake.io Game has been downloaded over 600 million times.

## **II. Lowtech, Slither.io, and Steven Howse**

18. Lowtech was founded by Howse in 2016. Howse is Lowtech's principal and agent, and Howse's actions and statements as directed towards Kooapps and the Snake.io Game as addressed in these Counterclaims are attributable to Lowtech because they were made in the course of his duties to Lowtech, relate to a Lowtech competitor, and were made with the purpose of benefiting Lowtech.

19. Lowtech is the developer of Slither.io. Similar to the Snake.io Game, Slither.io is a version of the classic retro arcade snake game.

20. Slither.io was launched in early 2016 on web and mobile. While Slither.io enjoyed initial success, its popularity and downloads peaked within the first six months of its launch and then drastically fell thereafter.

21. Lowtech functionally abandoned Slither.io in 2016. While the norm in the gaming industry is to release approximately one update per month, Lowtech stopped investing in Slither.io and stopped releasing updates. Starting in late 2016, Lowtech made virtually no efforts to market the game, update its features, or to promptly comply with updated app store requirements. Additionally, despite Apple and Google's emphasis on the importance of in-app live events, Lowtech held no live events on Slither.io. Howse's abandonment of Slither.io led it to become an inferior product with poor reviews and subject to takedowns by the Apple App Store and Google Play Store.

22. After the initial success of Slither.io, Lowtech's founder Howse essentially went dark. Howse and Lowtech ceased making investments in Slither.io and ignored negative user

reviews, which negatively impacted the game's success. Users complained about the game's frequent lags and glitches, controller sensitivity issues, server problems, and inappropriate usernames, but years passed without Lowtech addressing these problems.

23. Lowtech's neglect extended to Slither.io's trademarks, which Lowtech failed to actively enforce from 2016 to 2023. Since its launch, Slither.io and its trademarks have co-existed in the market with a plethora of other snake games, including the Snake.io Game.

24. Further, beginning in 2020, Lowtech chose to de-monetize Slither.io by removing all in-game advertisements and in-game purchases. In 2020, Lowtech completely removed ads from the iOS version of Slither.io. Subsequently in 2023, Lowtech deprioritized ads on the Google Play version of Slither.io.

25. The gaming industry is well-known for being hit-based, trendy, and hyper-competitive. Games often lose traction after the first few months unless they are regularly updated with new features and content and supported by heavy marketing spend. Accordingly, with Lowtech failing to invest in Slither.io, the game lost significant market share.

26. As a result of Lowtech's apparent abandonment of Slither.io, Kooapps saw an opportunity to revitalize the game. Kooapps had already acquired the Snake.io Game and was investing in the genre to provide an exciting and innovative version of the snake game to the community of players that enjoy playing it. Kooapps reached out to Lowtech at various points between 2019 and 2023 to gauge whether Lowtech had any interest in selling Slither.io or partnering with Kooapps. Lowtech did not respond to these inquiries.

27. Suddenly on November 22, 2023, without any prior communication with Kooapps in the form of a demand letter or otherwise, Lowtech filed a complaint against Kooapps for (a) federal trademark infringement; (b) false designation of origin and unfair competition; (c) false

advertising; (d) false and/or fraudulent registration in violation of 15 U.S.C. § 1120; and (e) common law unfair competition. Kooapps was first made aware of this lawsuit on January 16, 2024 and immediately engaged counsel to represent them to fight these baseless claims.

28. Curiously, it was not until late 2024 that Lowtech and Howse began to make updates to Slither.io. Following these updates, Slither.io experienced a temporary spike in downloads and rise in its app store rankings.

29. On October 29, 2024, Lowtech filed an amended complaint naming Kooapps' Chief Executive Officer Chun-Kai "CK" Wang and Kooapps' Chief Operating Officer Jonathan Chang as defendants in their individual capacities and adding claims for (1) trade dress infringement in violation of the Lanham Act; (2) seeking cancellation of Kooapps' trademark registration; (3) trademark dilution; and (4) unjust enrichment.

### **III. Howse's Disparagement of Kooapps on Discord**

30. In early 2024, with Lowtech's lawsuit against Kooapps pending, Howse began a campaign to defame Kooapps, spreading falsehoods on social media in an attempt to cause damage to Kooapps and its reputation in the marketplace. Howse conducted this campaign surreptitiously, authoring posts not under his own name but using the anonymous account names "Hypah" and "Hypah2." In some instances, Howse authored posts using the "Hypah" and "Hypah2" account names and implied he was not Steven Howse, possibly to obfuscate his identity. Indeed, using these account names, Howse has claimed to be a hacker who engages in fraudulent conduct online.

31. The forum for Howse's defamation of Kooapps and the Snake.io Game was a public Discord chat server. On information and belief, Discord is a social media platform that allows users to communicate through voice and video calls, text messaging, and other media. Users can communicate privately or publicly in virtual communities called "servers," which are

ongoing chat rooms and voice channels dedicated to specific shared interests. Discord is massively popular among gamers, and reports 150 million monthly active users and 19 million weekly active servers across the globe.

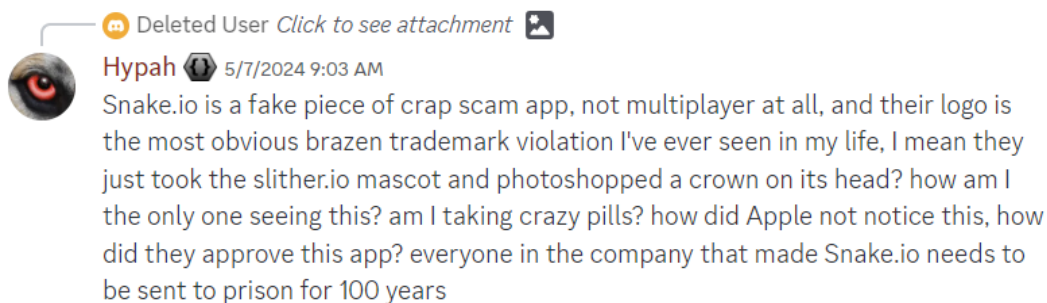
32. The Discord chat server in which Howse made the statements was dedicated to discussions about Slither.io. Accordingly, on information and belief, users of the server broadly included consumers who played and had an interest in snake games generally, including Slither.io and the Snake.io Game.

33. Many of Howse's statements concerned Lowtech's ongoing litigation with Kooapps and contained various false and inflammatory claims about Kooapps and the Snake.io Game. The relevant statements about Kooapps were first made on or around May 2024.

**a. Howse Falsely Stated That the Snake.io Game Does Not Have Multiplayer Functionality**

34. In several statements made on May 7, 2024, June 13, 2024, and September 12, 2024, Howse falsely claimed that the Snake.io Game does not currently, or did not previously, have multiplayer functionality (the "Multiplayer Statements").

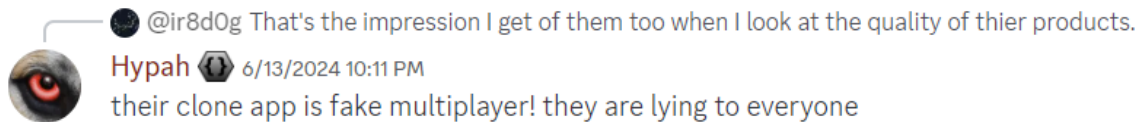
35. On May 7, 2024, Howse stated, "Snake.io is a fake piece of crap scam app, not multiplayer at all, and their logo is the most obvious brazen trademark violation I've ever seen in my life . . ."





36. The May 7, 2024 statement is false because, as set forth above, the Snake.io Game does have online multiplayer functionality and has had such functionality since Kooapps acquired the Snake.io Game in 2019. Further, Kooapps has invested significant time and resources to developing the Snake.io Game's online multiplayer features.

37. On June 13, 2024, Howse stated, "their clone app is fake multiplayer! They are lying to everyone."



38. The June 13, 2024 statement is false because, as set forth above, the Snake.io Game does have online multiplayer functionality and has had such functionality dating back to 2019 with online multiplayer leaderboards, 2021 with real-time synchronous gameplay multiplayer on web, and 2022 with real-time synchronous gameplay multiplayer on mobile. Indeed, Kooapps has invested significant time and resources to developing the Snake.io Game's online multiplayer features.

39. On September 12, 2024, Howse stated, “Snake.io was a completely fraudulent offline scam from April 2016 until October 2023. The app is still a fraud today because the default mode is still a fake offline scam while falsely presenting itself as totally online.”



Hypah 9/12/2024 2:22 AM

Snake.io was a completely fraudulent offline scam from April 2016 until October 2023. The app is still a fraud today because the default mode is still a fake offline scam while falsely presenting itself as totally online. The actual multiplayer option they started making available in October 2023 is hidden and mislabeled, they don't want anyone to use it because they know it sucks. They bought their crappy fake game from the original developers in 2020 and then stole the trademarked slither.io logo at that time. After that they were able to confuse many people into thinking their game is the real game. They paid for a ton of ads to pop up everywhere with the logo stolen from slither.io and slowly erased people's memory over time of what the real game's name was. Apple assisted them in their scam by aggressively promoting them for free and suppressing slither.io for years. Even in Apple's manually curated "Multiplayer Fun for Everyone" section in the App Store, they have Snake.io there 100% of the time, and they never show slither.io

I think it might be a cold calculation on Apple's side, they see that Snake.io has in-app purchases but slither.io does not, and so they figure they will make more money with Snake.io, so that's the one they promote

40. The September 12, 2024 statement is false because, as set forth above, the Snake.io Game does have online multiplayer functionality and has had such functionality dating back to 2019 with online multiplayer leaderboards and 2021 with real-time synchronous gameplay multiplayer. Further, Kooapps has invested significant time and resources to developing the Snake.io Game's online multiplayer features.

41. In fact, Howse himself acknowledged that his statements about the Snake.io Game's purported lack of multiplayer functionality were false. On May 12, 2024, Howse stated, “oh I see, the Snake.io app actually does have a multiplayer mode, but it's hidden, you need to tap 'Ranked' first.”



Hypah 5/12/2024 12:06 PM

oh I see, the Snake.io app actually does have a multiplayer mode, but it's hidden, you need to tap "Ranked" first. The default selection is "Unranked", but it doesn't explain to anyone that "Unranked" is fake and only single player  
I bet only maybe 5% of people think to tap "Ranked", they must save a lot of money on server costs



42. However, despite acknowledging that the Snake.io Game does have multiplayer functionality, Howse continued to falsely state that the Snake.io Game is not a multiplayer game. Thus, Howse published the Multiplayer Statements with negligence, reckless disregard for the truth, and knowledge of falsity.

43. As a result of the Multiplayer Statements, Lowtech and Howse misled potential consumers of the Snake.io Game to believe that the game did not have multiplayer functionality, causing a loss of sales to be determined at trial.

**b. Howse Encouraged Users to Sabotage the Snake.io Game by Leaving Negative Reviews**

44. In several statements made on May 7, 2024, May 31, 2024, September 9, 2024, and September 12, 2024, Howse repeatedly called for a “smear campaign” against Kooapps and suggested that other Discord users leave negative reviews about the Snake.io Game, delete the game, and help to get the game removed from app stores (the “Smear Campaign Statements”).

45. On May 7, 2024, Howse stated, “leave a 1 star review for Snake.io and delete it from your phone, it’s a fake scam app, not actual multiplayer.”



@Lt.Dans legs THE LAGGGGGG!! Holy hell. I've seen a few people t...

Hypah 5/7/2024 9:05 AM

leave a 1 star review for Snake.io and delete it from your phone, it's a fake scam app, not actual multiplayer

46. On May 31, 2024, Howse stated, “we need to get Snake.io taken down from the app stores, their trademark infringement is misleading all regular normal people who are looking for slither.io.”



Hypah 5/31/2024 8:47 PM

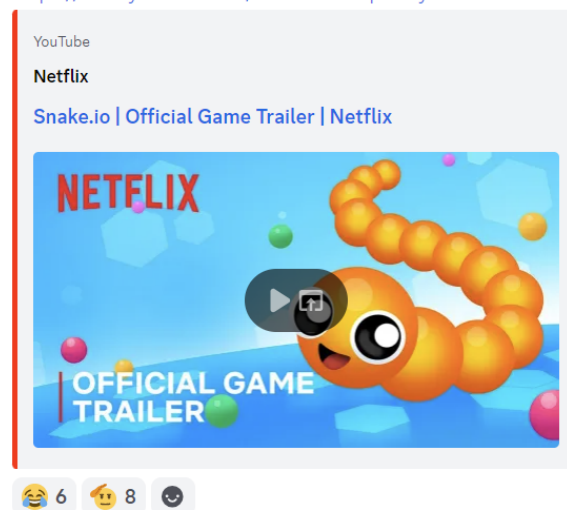
we need to get Snake.io taken down from the app stores, their trademark infringement is misleading all regular normal people who are looking for slither.io

47. On September 9, 2024, Howse referenced the Snake.io Game’s official Netflix trailer video and stated, “everyone please leave negative comments on this video.”



Hypah 9/9/2024 4:38 AM

everyone please leave negative comments on this video  
<https://www.youtube.com/watch?v=O3qG-XayCHI>



48. On September 12, 2024, Howse stated, “maybe I should start a public smear campaign against them.”

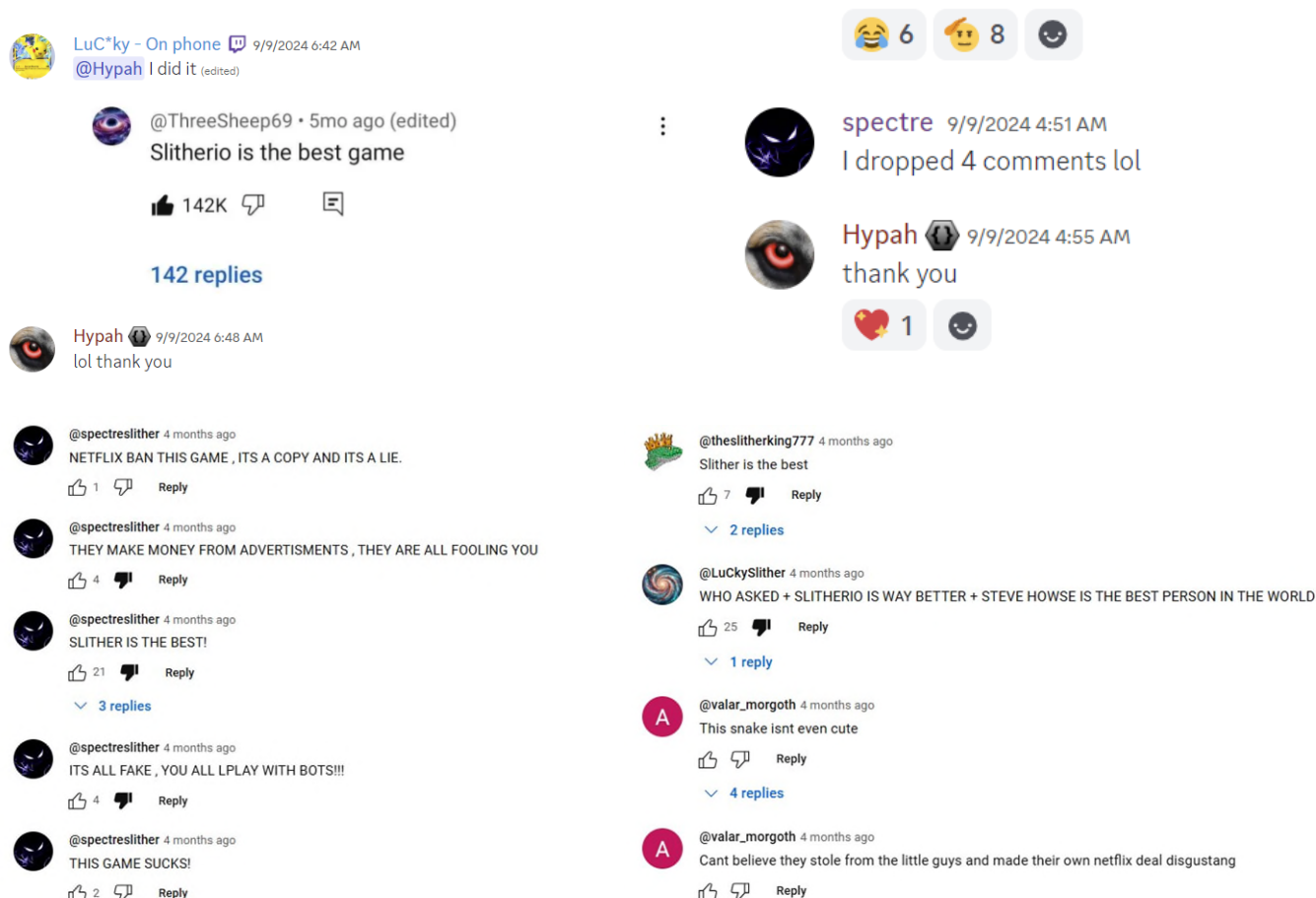


Hypah 9/12/2024 3:47 AM

maybe I should start a public smear campaign against them



49. As a result of the Smear Campaign statements, several users did, in fact, participate in the purported campaign and left negative comments about the Snake.io Game and in support of Slither.io.



50. The Smear Campaign Statements interfered with potential consumers' decisions to download the Snake.io Game, thereby causing a loss of revenue to be determined at trial.

**c. Howse Made Disparaging Remarks About Kooapps' Business Practices**

51. In statements made on May 7, 2024, June 13, 2024, July 26, 2024, and September 2, 2024, Howse made multiple false and disparaging statements related to Kooapps' business practices (the "Business Practices Statements").

52. On May 7, 2024, Howse stated, “the developers of Snake.io should all be sent to prison for defrauding millions of people with their scam app.”



Hypah  5/7/2024 1:17 PM

the developers of Snake.io should all be sent to prison for defrauding millions of people with their scam app

53. On June 13, 2024, Howse stated, “I shouldn’t say much since Kooapps probably sent their goons to lurk in here to look for clues about where to send their hitmen to make the trademark lawsuit go away.”



Hypah  6/13/2024 9:33 PM

I shouldn't say much since Kooapps probably sent their goons to lurk in here to look for clues about where to send their hitmen to make the trademark lawsuit go away



5



54. On July 26, 2024, Howse stated, “all of these fake .io games are scamming users who spend money on in-app purchases for skins, power-ups, and anything else. Every penny spent on these games was taken by deception and fraud . . . The developers belong in prison.”



Hypah  7/26/2024 4:59 PM

all of these fake .io games are scamming users who spend money on in-app purchases for skins, power-ups, and anything else. Every penny spent on these games was taken by deception and fraud. The whole reason people buy skins and other upgrades in these types of games is in order to show them off to other real players. The developers belong in prison

I wonder if this is part of why Tim Sweeney hates Apple so much  
maybe I should ask him

55. On September 2, 2024, Howse stated, “the trial date isn’t until December 2025, until then I guess they get to do whatever they want. They probably plan to keep scamming people as much as possible and then sell the game by November 2025 . . . or maybe they’ll try to kill me before December 2025.”



Hypah  9/2/2024 11:14 PM

the trial date isn't until December 2025, until then I guess they get to do whatever they want. They probably plan to keep scamming people as much as possible and then sell the game by November 2025 (edited)  
or maybe they'll try to kill me before December 2025



56. Through the Business Practices statements, Lowtech and Howse damaged Kooapps’ reputation and misled consumers to believe that Kooapps engages in unethical and unlawful conduct.

**d. Howse Made Disparaging Remarks About Other Games and Entities**

57. In addition to the statements regarding the Snake.io Game, Howse has also taken to Discord to disparage other “.io” games and the platforms on which they are sold. Similar to his false theory about the Snake.io Game, Howse has baselessly claimed that the developers and sellers of other “.io” games have defrauded users through the games’ purported lack of multiplayer functionality.

58. On July 6, 2024, Howse stated, “Paper.io mobile app has sunk to new depths of lying, now they pretend to have a realtime multiplayer online red vs blue team mode with 14,000 people online playing in the same server, when in fact there are no servers at all and it just puts you in a fake single player arena with 9 bots.”



Hypah 7/6/2024 8:05 PM

Paper.io mobile app has sunk to new depths of lying, now they pretend to have a realtime multiplayer online red vs blue team mode with 14,000 people online playing in the same server, when in fact there are no servers at all and it just puts you in a fake single player arena with 9 bots



59. On July 19, 2024, Howse stated, “the whole category got hijacked by liars, then Apple colluded with the fake multiplayer game devs to help defraud the world, now when people think ‘.io’ they think fake boring garbage.”



Hypah 7/19/2024 6:05 PM

the whole category got hijacked by liars, then Apple colluded with the fake multiplayer game devs to help defraud the world, now when people think ".io" they think fake boring garbage

60. On July 26, 2024, Howse stated, “Apple should be reported to the FTC for knowingly distributing fake .io games . . . Paper.io2: Fake . . . Hole.io: Fake . . . aquapark.io: Fake.”



Hypah 7/26/2024 4:51 PM

Apple should be reported to the FTC for knowingly distributing fake .io games  
Paper.io 2: Fake



@Hypah Apple should be reported to the FTC for knowingly distributing fake .io games

\*[🐶]\* Texas Sunset 🌅 7/26/2024 4:52 PM

Did they annoy you? Does reporting such a thing actually cause something to happen?



Hypah 7/26/2024 4:52 PM

Hole.io: Fake  
aquapark.io: Fake



61. On August 7, 2024, Howse stated, “I checked the first 42 .io game search results for ‘.io games’ in the App Store, 36 of them are fake multiplayer.”



Hypah 8/7/2024 12:31 PM

yeah I tested 42 different .io games in the App Store and most of them do that, you try to skip the ad for an app and it takes you to the App Store listing for that app anyway and prompts you to install it (edited)

I checked the first 42 .io game search results for ".io games" in the App Store, 36 of them are fake multiplayer. Mass consumer fraud charging people money for multiplayer game skins that no one else will ever see

**e. Lowtech Admits that Howse is Behind the Defamatory and Disparaging Posts**

62. Howse and Lowtech continued to cloak themselves in anonymity on Discord through the end of 2024. It was not until the end of January 2025 when Lowtech finally admitted that Howse was responsible for the posts and statements on the Slither.io Discord chat server made by the anonymous account names “Hypah” and “Hypah2.” Lowtech confirmed that “Steven Howse has occasionally referenced Kooapps games using the Discord display name ‘Hypah’ on the Discord platform.”

**IV. Kooapps Suffered Direct Damages as a Result of Howse’s Statements**

63. Due to Howse’s various statements, Kooapps has suffered substantial damages based on lost revenues from the platforms on which the Snake.io Game is available.

64. From Kooapps’ acquisition of the Snake.io Game in 2019 to 2023, revenues from the game have increased yearly on the Apple App Store and Google Play Store platforms.

65. However, as a direct and proximate result of Howse’s statements, 2024 was the first year in which quarterly revenues for the Snake.io Game declined as compared to the prior year. Indeed, as measured against 2023 revenues from the Apple App Store and Google Play Store platforms in the United States alone, Kooapps suffered approximately half a million dollars in lost revenue for the Snake.io Game in 2024, the period when Lowtech and Howse were conducting

their campaign of defamation and disparagement. On information and belief, a substantial share if not all of this lost revenue in an amount to be determined at trial was caused by Lowtech and Howse's misconduct.

### **CAUSES OF ACTION**

#### **Counterclaim I – False Advertising in Violation of 15 U.S.C. § 1125(a)(1)(B) (Against All Counterclaim-Defendants)**

66. Kooapps hereby re-alleges and incorporates by reference the allegations in paragraphs 1 through 65 of these Counterclaims as if fully set forth herein.

67. The Multiplayer Statements were literally false and misleading statements of fact about the Snake.io Game because they falsely implied that the Snake.io Game does not have multiplayer functionality, despite the fact that this is a key feature of the Snake.io Game and Kooapps invested significant time and resources to developing the game's online multiplayer features.

68. Due to their literal falsity, the Multiplayer Statements deceived or had the capacity to deceive a substantial segment of potential consumers and they were material, in that they were likely to influence consumers' decisions to download the Snake.io Game.

69. The Snake.io Game is a product in interstate commerce because it is sold nationally on the Apple App Store and the Google Play Store.

70. Kooapps suffered injury as a direct and proximate result of the Multiplayer Statements.

**Counterclaim II – Defamation  
(Against All Counterclaim-Defendants)**

71. Kooapps hereby re-alleges and incorporates by reference the allegations in paragraphs 1 through 70 of these Counterclaims as if fully set forth herein.

72. The Multiplayer Statements made by Howse were false, misleading, and defamatory because they falsely implied that the Snake.io Game does not have multiplayer functionality, despite the fact that this is a key feature of the Snake.io Game and Kooapps invested significant time and resources to developing the game's online multiplayer features.

73. The Multiplayer Statements were of and concerning Kooapps because they expressly identified Kooapps' product Snake.io by name.

74. The Multiplayer Statements were published with negligence, reckless disregard for the truth, and knowledge of falsity because Howse expressly acknowledged that the Snake.io Game has multiplayer functionality, but repeatedly stated that it did not.

75. Kooapps suffered economic damages as a direct and proximate result of the Multiplayer Statements.

76. Further, the Business Practices Statements made by Howse ascribe to Kooapps conduct, including unethical and unlawful conduct, that would adversely affect its business and profession and would reflect negatively on its fitness for the proper conduct of its lawful business. Accordingly, the Business Practices Statements constitute defamation *per se*.

**Counterclaim III – Business Disparagement  
(Against All Counterclaim-Defendants)**

77. Kooapps hereby re-alleges and incorporates by reference the allegations in paragraphs 1 through 76 of these Counterclaims as if fully set forth herein.

78. The Multiplayer Statements made by Howse were false, misleading, and defamatory because they falsely implied that Kooapps' product Snake.io does not have multiplayer functionality, despite the fact that this is a key feature of the Snake.io Game and Kooapps invested significant time and resources to developing the game's online multiplayer features.

79. The Multiplayer Statements were published with malice and with the intent to cause pecuniary loss because Howse knew the statements were false.

80. Kooapps suffered pecuniary loss as a direct and proximate result of the Multiplayer Statements.

**Counterclaim IV – Tortious Interference with Prospective Business Relations  
(Against All Counterclaim-Defendants)**

81. Kooapps hereby re-alleges and incorporates by reference the allegations in paragraphs 1 through 80 of these Counterclaims as if fully set forth herein.

82. As a gaming studio, there was a reasonable probability that Kooapps would enter into relationships with third party consumers to sell its gaming products, including the Snake.io Game.

83. Through the Multiplayer Statements and the Smear Campaign Statements, Lowtech and Howse acted with a conscious desire to prevent these relationships from occurring by making false and defamatory statements about Kooapps and the Snake.io Game.

84. The Multiplayer Statements and the Smear Campaign Statements proximately caused Kooapps injury and Kooapps did suffer damages in the form of lost sales as a result.

**Counterclaim V – Statutory Unfair Competition in Violation of  
Wash. Rev. Code Ann. § 19.86.020  
(Against All Counterclaim-Defendants)**

85. Kooapps hereby re-alleges and incorporates by reference the allegations in paragraphs 1 through 84 of these Counterclaims as if fully set forth herein.

86. Through the Multiplayer Statements and the Smear Campaign Statements, Lowtech and Howse committed an unfair or deceptive act or practice in trade or commerce by making false and defamatory statements about Kooapps and the Snake.io Game.

87. The Multiplayer Statements and the Smear Campaign Statements proximately caused Kooapps injury and Kooapps did suffer damages in the form of lost sales as a result.

88. The Multiplayer Statements and the Smear Campaign Statements had a public interest impact by negatively impacting an open marketplace for video games, by providing false information to consumers, and by infecting social media with false statements, among other public interest impacts.

#### **DEMAND FOR A JURY TRIAL**

Kooapps demands a jury trial on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Kooapps prays that the Court enter judgment in its favor and against Lowtech and Howse as follows:

- i. Damages, in an amount to be determined at trial, incurred by Kooapps as a result of Lowtech and Howse's conduct;
- ii. Pre-judgment and post-judgment interest, costs, disbursements, and attorneys' fees; and
- iii. Such other relief as the Court deems just and proper.

Dated: [##]

**WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation**

By: \_\_\_\_\_  
Eli B. Richlin  
New York State Bar No. 4861357  
(Admitted *Pro Hac Vice*)  
erichlin@wsgr.com

1301 Avenue of the Americas, 40<sup>th</sup> Floor  
New York, NY 10019

Joshua A. Baskin  
California State Bar No. 294971  
(Admitted *Pro Hac Vice*)  
jbaskin@wsgr.com

Chloe Delehanty  
California State Bar No. 333412  
(Admitted *Pro Hac Vice*)  
cdelehanty@wsgr.com

Wilson Sonsini Goodrich & Rosati  
One Market Plaza, Spear Tower  
Suite 3300  
San Francisco, CA 94105-1126

**NESBITT LEGAL PLLC**

Thomas A. Nesbitt  
State Bar. No. 24007738  
tom@nesbittlegal.com

809 West Avenue  
Austin, Texas 78701  
Phone: (512) 617-5562  
Fax: (512) 617-5563

*Attorneys for Defendants*  
Kooapps Inc., Jonathan Chang, and  
Chun-Kai Wang

**CERTIFICATE OF SERVICE**

The undersigned certifies that on [###], all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system.

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Chloe Delehanty

*Attorneys for Defendants*  
Kooapps Inc., Jonathan Chang, and  
Chun-Kai Wang